

Federal Communications Commission

DA 04-3482

Nov 5 9 50 AM '04

Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCH

In the Matter of

Amendment of Section 73.622(b),
Table of Allotments,
Digital Television Broadcast Stations.
(Fresno, California)

MB Docket No. 04-236
RM-11001

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 29, 2004

Released: November 5, 2004

By the Chief, Video Division:

1. At the request of KSEE License, Inc. ("KSEE"), licensee of station KSEE, DTV channel 16, Fresno, California, the Commission has before it the Notice of Proposed Rule Making, 19 FCC Rcd 11893 (2004), proposing the substitution of DTV channel 38 for DTV channel 16. KSEE, Champion Communication Services, Inc., Farhad Mansourian, Director of the Department of Public Works for Marin County, and the County of Los Angeles, California, filed comments.¹ KSEE filed responsive comments.

2. In response to the *Notice*, Champion and the counties of Marin and Los Angeles filed comments supporting the channel substitution noting that operation on DTV channel 16 by KSEE has resulted in harmful interference to the co-channel operations of several land mobile licensees in the San Francisco and Los Angeles area. Champion states that the Commission should direct KSEE to suspend its operations on channel 16 in the Fresno area and expedite its action on KSEE's channel substitution request. All parties filing comments agree that the adoption of the channel substitution proposal would eliminate interference to private and public safety land mobile operations on channel 16.

3. We believe the public interest would be served by substitution of DTV channel 38 for DTV 16 since it will enable station KSEE-DT to resolve the interference disputes in the Fresno and San Francisco areas. DTV channel 38 can be allotted to Fresno, California, as proposed, in compliance with the principle community coverage requirement of Section 73.625(a) at KSEE current site.² In addition, we find that this channel is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) for Station KSEE-DT with the following specifications:

¹ On March 5, 2004, prior to the issuance of a *Notice* in this proceeding, the County of Los Angeles filed an Interference Complaint and Petition with the Chief of the Spectrum Enforcement Division, Enforcement Bureau, claiming that station KSEE-DT, operating on channel 16, was causing destructive interference to the Los Angeles Sheriff's Department radio communications.

² The coordinates for DTV channel 38 at Fresno are North Latitude 37-04-19 and West Longitude 119-25-48.

| <u>State & City</u> | <u>DTV Channel</u> | <u>DTV power (kW)</u> | <u>Antenna HAAT (m)</u> | <u>DTV Service Pop. (thous.)</u> |
|-------------------------|------------------------|---------------------------|-----------------------------|--------------------------------------|
| CA Fresno | 38 | 326 | 601 | 1224 |

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 20, 2004, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

| <u>City</u> | <u>Channel No.</u> |
|--------------------|----------------------|
| Fresno, California | 7, 9, 34, 38, *40 |

5. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, KSEE License, Inc. shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV Channel 38 in lieu of DTV Channel 16 for station KSEE-DT.

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau